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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,205	12/21/2000	Benoit Pol Menez	PU000178	8043

7590

07/14/2004

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EXAMINER

ABDI, KAMBIZ

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/745,205

Applicant(s)

MENEZ ET AL.

Examiner

Kambiz Abdi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4,6 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6 and 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this section can be found in the prior office action.
2. The prior office action is incorporated herein by reference. In particular, the observations with respect to claim language. Claim objection of previous office action is withdrawn in view of the amendments to claim 1.
  - Claims 1, 3, 6, and 11-12 have been amended.
  - Claims 5, and 7-10 have been cancelled.
  - Claim 13 has been added.
  - Claims 1-4, 6, and 11-13 are pending.

### ***Response to Amendment***

3. Applicant's arguments with respect to independent claims 1, 11 and 12 and consequently of claims 2-4, 6, and 13 have been considered but they are not persuasive as they do not distinguish the claims over the prior arts of record that has been presented to applicant and cited in the earlier rejections, in addition, in view of the new ground(s) of rejection.
4. The rejection under 35 U.S.C. 101 has been maintained.

### ***Claim Rejections - 35 USC §101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requires of this title.

6. Claims 1-4, and 6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to a process that does nothing more than manipulate an abstract idea. There is no practical application in the technological arts.

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It is noted that method claim 1 fails to recite/define a computer, machine or device that would render the claims in the technological arts and in statutory status. A claim is limited to a practical application when the method, as claimed, produces a concrete, tangible and useful result: i.e. the method recites a step or act of producing something that is concrete, tangible and useful. See *AT&T v. Excel Communications Inc.*, 172 F.3d at 1358, 50 USPQ2d at 1452.

7. Furthermore, claims 2-4, and 6 being dependent on rejected independent claims 1 are rejected as well.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,559,871 to David B. Smith in view of U.S. Patent No. 6,067,564 to Akira Urakoshi et al.

8. As per claims 1 and 11, Smith clearly discloses a method and a system for controlling user spending, comprising the steps of:

- Detecting a user request; providing a plurality of selectively actuatable entries for single-user spending limits each spending limit being associated with a different-length time period, in response to the user request (See Smith abstract, figures 2-10 and associated text, column 1, lines 43-68, column 2, lines 1-35, column 3, lines 52-68, column 4, lines 30-47, and column 5, lines 46-62);
- Receiving selection of at least one of the plurality of selectively actuatable entries and a spending limit for the selected at least one of the plurality of selectively actuatable

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entries (See Smith abstract, figures 2-10 and associated text, column 1, lines 43-68, column 2, lines 1-35, column 3, lines 52-68, column 4, lines 30-47, and column 5, lines 46-62); and

- Tracking user spending on purchasing television programs during the time period associated with each selected entry (See Smith abstract, figures 2-10 and associated text, column 1, lines 43-68, column 2, lines 1-35, column 3, lines 52-68, column 4, lines 30-47, and column 5, lines 46-62); and
- Notifying the user, when purchasing a television program would exceed the spending limit during the time period for any selected entry (See Smith abstract, figures 2-10 and associated text, column 1, lines 43-68, column 2, lines 1-35, column 3, lines 52-68).

What Smith is not specific is controlling user spending of purchasing television programs.

However, Urakoshi clearly teaches the limitation of spending control for purchasing television programs (See Urakoshi abstract, figures 3, 4, 6, and 11, column 2, lines 9-30 and column 5, lines 40-49). Therefore, it would have been obvious to one having ordinary skill in the art at the time the current invention was made to combine the Smith teaching with Urakoshi teachings to have better control and management of the charges to one having a subscription to a portal system such as pay-per-view or cable program purchasing.

9. As per claim 2, Smith and Urakoshi teach all the limitations of claim 1, further; Smith teaches,

the step of providing a selection for a rolling time period (See Smith abstract, figures 2-10 and associated text, column 1, lines 43-68, column 2, lines 1-35, column 3, lines 52-68, column 4, lines 30-47, and column 5, lines 46-62).

10. As per claim 3, Smith and Urakoshi teach all the limitations of claim 1, further; Smith teaches,

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The step comprises of generating a user warning (See Smith abstract, figures 2-10 and associated text, column 1, lines 43-68, column 2, lines 1-35, column 3, lines 52-68, column 4, lines 30-47, and column 5, lines 46-62).

11. As per claim 4, Smith and Urakoshi teach all the limitations of claim 1, further; Smith teaches,

the step of allowing the user to override the user spending limit (See Smith abstract, figures 2-10 and associated text, column 1, lines 43-68, column 2, lines 1-35, column 3, lines 52-68, column 4, lines 30-47, and column 5, lines 46-62).

12. As per claims 6 and 13, Smith and Urakoshi teach all the limitations of claims 1 and 12, further; Smith teaches,

performing a check to see if a spending limit for a shorter time period is greater than a spending limit entry for a longer time period; and providing a user warning if the spending limit for the shorter time period is greater (See Smith abstract, figures 2-10 and associated text, column 1, lines 43-68, column 2, lines 1-35, column 3, lines 52-68, column 4, lines 30-47, and column 5, lines 46-62).

Smith is not clear on the comparison of limits of the shorter time period and the longer time period and generating a warning. However, Urakoshi clearly teaches the control steps for time limit on spending and comparing the actual spending and the set limits as well as the budget that is designated (longer period spending) (See Urakoshi abstract, figures 3, 4, 6, and 11, column 2, lines 9-30, column 4, lines 42-68, and column 5, lines 1-3 and lines 40-49). In addition, it is examiners understanding that one cannot spend for example \$100 for a period of one day when the total spending limit for a month is set to be no more than \$50 within the same month. Therefore, it would have been obvious to one having ordinary skill in the art at the time the current invention was made to add the step and limitation of comparing the shorter period spending with longer period spending to be incorporated within Smith or Urakoshi teachings to avoid over spending.

13. As per claim 12, A television apparatus for controlling user spending of a user purchasing television programs, comprising;

- a user interface for receiving a user request; means for providing a plurality of spending limit entries for a single user each entry corresponding to a different time period, in response to the user request (See Smith abstract, figures 2-10 and associated text, column 1, lines 43-68, column 2, lines 1-35, column 3, lines 52-68, column 4, lines 30-47, and column 5, lines 46-62);
- means for receiving selection of and a spending limit for at least one of the spending limit was entries (See Smith abstract, figures 2-10 and associated text, column 1, lines 43-68, column 2, lines 1-35, column 3, lines 52-68, column 4, lines 30-47, and column 5, lines 46-62);
- means for tracking user spending during each different time period for which a spending limit was received; and (See Smith abstract, figures 2-10 and associated text, column 1, lines 43-68, column 2, lines 1-35, column 3, lines 52-68, column 4, lines 30-47, and column 5, lines 46-62).
- Means for notifying the user, when purchasing a television program would exceed the spending limit during the time period for any selected entry. (See Smith abstract, figures 2-10 and associated text, column 1, lines 43-68, column 2, lines 1-35, column 3, lines 52-68).

What Smith is not specific is controlling user spending of purchasing television programs.

However, Urakoshi clearly teaches the limitation of spending control for purchasing television programs (See Urakoshi abstract, figures 3, 4, 6, and 11, column 2, lines 9-30 and column 5, lines 40-49). Therefore, it would have been obvious to one having ordinary skill in the art at the time the current invention was made to combine the Smith teaching with Urakoshi teachings to have better control and management of the charges to one having a subscription to a portal system such as pay-per-view or cable program purchasing.

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14. Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

### **Conclusion**

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kambiz Abdi whose telephone number is (703) 305-3364. The examiner can normally be reached on 9:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:



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**Commissioner of Patents and Trademarks  
Washington D.C. 20231**

or faxed to:

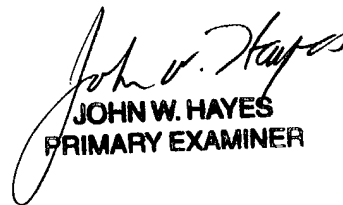
(703) 872-9306 [Official communications; including After Final communications labeled "Box AF"]

(703) 746-7749 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to:

**Crystal Park 5, 2451 Crystal Drive  
7th floor receptionist, Arlington, VA, 22202**

**Abdi/K  
July 9, 2004**

  
**JOHN W. HAYES  
PRIMARY EXAMINER**